

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

RONALD D. SMART,)
)
Plaintiff,)
)
v.) Case No. 06-4029-JPG
)
INTERNATIONAL BROTHERHOOD OF)
ELECTRICAL WORKERS, LOCAL 702,)
)
Defendant.)

ORDER

GILBERT, District Judge:

This matter comes before the Court on plaintiff's Notice of Voluntary Dismissal Pursuant to Federal Rule 41(a)(1). (Doc. 5). Rule 41(a)(1)(i) provides that "an action may be dismissed by the plaintiff without order of court . . . by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs." Further, Rule 41(a)(1) provides that "unless otherwise stated in the notice of dismissal . . . the dismissal is without prejudice . . ."

In this case, the plaintiff has submitted a notice of dismissal prior to the defendant's service of an answer or motion for summary judgment. Therefore, the plaintiff's notice of dismissal, by itself, has the effect of dismissing plaintiff's action without prejudice.

Therefore, the Court finds that this action has been **DISMISSED without prejudice** and **DIRECTS** the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.

Dated: February 9, 2006.

/s/ J. Phil Gilbert
J. PHIL GILBERT
U.S. District Judge